

(5) The total amount of the allotment (the amount to be paid for current support and the amount to be paid each month towards arrears must be specified), the date or dates that the current support should terminate (for each child), and the name and address of the payee.

§ 818.17 Paternity claims.

The Air Force does not judge paternity claims against its personnel. Paternity must be established either by admission, or by judicial order or decree of paternity, or child support duly ordered by a United States or foreign court of competent jurisdiction.

(a) Allegations of paternity against active duty members will be transmitted to the member concerned through his unit commander. The unit commander will:

(1) If paternity is denied, inform the claimant accordingly and advise of Air Force policy regarding paternity claims.

(2) Once paternity is established, advise the member of his moral and legal obligations as well as his legal rights in the matter. The member will be encouraged to render the necessary financial support to the child and take any other action considered proper under the circumstances. Advise the claimant of Air Force policy as it relates to support of dependents and the position taken by the member, if the member elects to take one.

(3) On receipt of a communication from a judge of a civilian court, including a court summons or a judicial order, concerning the member's availability to appear at an adoption hearing where it is alleged that he is the father of an illegitimate child, provide a reply that:

(i) Due to military requirements, the member cannot be granted leave to attend any court hearing until (date), or

(ii) A request by the member for leave to attend an adoption hearing on (date), if made, would be approved, or

(iii) The member has stated in a sworn written statement (forward a copy with response) that he is not the natural parent of the child, and that only a court of competent jurisdiction can judge the matter, or

(iv) Due to the member's unavailability caused by a specific reason, a completely responsive answer cannot be made.

(v) Inform member of the inquiry and the response. Also, member should be urged to obtain legal assistance (including an explanation of the Soldiers' and Sailors' Civil Relief Act of 1940, if appropriate).

(b) If the member has been released from active duty, the unit commander forwards the inquiry to HQ ARPC/DPAS, Denver CO 80280-5000. Advise complainant of the referral.

(1) HQ ARPC/DPAS, on receipt of an allegation of paternity, provides an appropriate response to the claimant as set forth for members on active duty under paragraphs (a) (1) and (2) of this section.

(2) Communications from a judge of a civilian court, including a court summons or judicial order, concerning the availability of personnel to appear at an adoption hearing where it is alleged that the member not on active duty is the father of an illegitimate child, shall receive a reply that such person is not on active duty. A copy of the communication and the reply is forwarded to the named individual.

(3) When requested by a judge of a civilian court, the member's address may be furnished if the request is supported by a:

(i) Certified copy of either a judicial order or decree of paternity or support duly rendered against the member by a United States or foreign court of competent jurisdiction; or

(ii) Document that establishes that the member has made an official admission or statement acknowledging paternity or responsibility for support of a child before a court of competent jurisdiction, administrative or executive agency, or official authorized to receive it; or

(iii) Court summons, judicial order, or similar document of a court within the United States in a case concerning the adoption of an illegitimate child wherein the member is alleged to be the father.

(4) The address may also be furnished if the claimant, with the corroboration of a physician's affidavit, alleges and explains an unusual medical situation

that makes it essential to obtain information from the alleged father to protect the physical health of either the prospective mother or the unborn child.

(c) If the member has been separated with no further military status or retired, the unit commander advises the claimant:

(1) Of the date of discharge. Indicate that you are unable to assist because the individual is no longer under Air Force jurisdiction. Also, advise that the Air Force assumes no responsibility for the whereabouts of individuals no longer under its jurisdiction.

(2) In addition, the last known address of the former member may be furnished the requester under the same conditions as set forth for members not on active duty under paragraph (b) of this section.

§ 818.18 Certificate of compliance.

See 32 CFR part 43a.10.

§ 818.19 Standards of fairness.

See 32 CFR part 43a.9.

§ 818.20 Garnishment of pay of Air Force members and employees only for child support or alimony obligations.

(a) This section is for general guidance. For more specific information, refer to the United States Code (42 U.S.C. 659, 661, 662; 15 U.S.C. 1673), the Code of Federal Regulations (5 CFR part 581), and applicable State law.

(b) Federal law authorizes legal process against the United States Air Force only for the enforcement of child support and alimony obligations of members and employees in accordance with State law. This includes active duty, Reserve, Air National Guard (ANG), and retired military members, and civilian employees of the United States Air Force. See 42 U.S.C. 659.

(c) Legal process is defined as any writ, order, summons, or other similar process in the nature of garnishment directed to the US Air Force which is issued by:

(1) A court of competent jurisdiction within any State, territory, or possession of the United States;

(2) A court of competent jurisdiction in any foreign country with which the

United States has entered into an agreement that requires the United States to honor such process; or

(3) An authorized official pursuant to an order of such court of competent jurisdiction or pursuant to State or local law. See 42 U.S.C. 659, 662.

(d) Child support is the legal obligation of an individual to provide periodic payments of funds for the support and maintenance of a child, subject to, and in accordance with, State law.

(e) Alimony is defined as the obligation of an individual to provide periodic payments for the support and maintenance of the spouse (or former spouse) including separate maintenance, alimony pendente lite, maintenance, and spousal support. The definition of alimony expressly excludes payments or transfers of property made in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses. See 42 U.S.C. 662 (b) and (c).

(f) Attorney's fees, interest, and court costs are within the definition of child support and alimony when, and to the extent, they are recoverable pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

(g) State law is to be followed when processing garnishment requests (as to jurisdiction and competency of courts, procedures, exemptions, and the operation of garnishment or similar process). However, State law as it applies to service of process and exemptions from garnishment and similar process may be affected by Federal law. See 42 U.S.C. 659(b) and 15 U.S.C. 1673(b).

(h) Unless an otherwise lesser amount is specified by State law, Federal law provides a limit of 50 percent on the amount that is subject to garnishment for a person supporting a second family (a spouse or dependent child), and 60 percent for a person who is not. The percentages are increased by an additional 5 percent in each situation if there are outstanding arrearages more than 12 weeks old.

(i) A Federal employee's pay subject to garnishment includes wages, salary bonuses, incentive pay, retired pay, or disability retirement pay. (The United